

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1851-PWS-E **TCEQ ID:** RN101452209 **CASE NO.:** 34955
RESPONDENT NAME: Post Oak Special Utility District

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Post Oak SUD, 20632 North Farm-to-Market Road 709, Dawson, Navarro County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 26, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Tel Croston, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5717; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Kerry W. Feller, President, Post Oak Special Utility District, P.O. Box 246, Hubbard, Texas 76648 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 19, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 31, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to keep on file and make available for Commission review the following water system records: bacteriological sampling records for June and December 2004 and Customer Service Inspection reports for 2004 [30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(i) and 290.46(f)(3)(E)(iv)].</p> <p>2) Failed to secure the roof hatch of a ground storage tank [30 TEX. ADMIN. CODE § 290.43(c)(2)].</p> <p>3) Failed to complete Customer Service Inspection reports prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j)].</p> <p>4) Failed to provide a properly constructed intruder-resistant fence [30 TEX. ADMIN. CODE § 290.43(e)].</p>	<p>Total Assessed: \$668</p> <p>Total Deferred: \$134 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$534</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility on October 3, 2007:</p> <p>a. Provided documentation of the June and December 2004 bacteriological sampling reports;</p> <p>b. Provided photographic documentation that the ground storage tank roof hatch was locked; and</p> <p>c. Provided photographic documentation that the barbed wire on the fence was repaired.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit Customer Service Inspection reports for 2004;</p> <p>b. Within 60 days after the effective date of this Agreed Order, complete Customer Service Inspections at the following residences: 211 Hill County Road 3322 Loop, Hillsboro, 1827 Highway 171, Hillsboro, 122 Private Road 5177A, Coolidge and 115 Private Road 5177A, Coolidge; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): 1090030



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES

Assigned
PCW22-Oct-2007
6-Nov-2007

Screening

6-Nov-2007

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Post Oak Special Utility District

Reg. Ent. Ref. No. RN101452209

Facility/Site Region 9-Waco

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 34955

Docket No. 2007-1851-PWS-E

Media Program(s) Public Water Supply

Multi-Media

No. of Violations 4

Order Type 1660

Enf. Coordinator Tel Croston

EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 Maximum \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$510

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

31% Enhancement

Subtotals 2, 3, & 7

\$158

Notes

The Respondent was issued One Agreed Order, one NOV for the same or similar violations, and three dissimilar NOVs in the past five years.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent is not yet in compliance.

0% Enhancement*

Subtotal 6

\$0

Total EB Amounts \$39

Approx. Cost of Compliance \$2,325

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal

\$668

OTHER FACTORS AS JUSTICE MAY REQUIRE

0%

Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

\$668

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$668

DEFERRAL

20%

Reduction

Adjustment

-\$134

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$534

Screening Date 6-Nov-2007

Docket No. 2007-1851-PWS-E

PCW

Respondent Post Oak Special Utility District

Policy Revision 2 (September 2002)

Case ID No. 34955

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101452209

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 31%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent was issued One Agreed Order, one NOV for the same or similar violations, and three dissimilar NOVs in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 31%

Screening Date 6-Nov-2007		Docket No. 2007-1851-PWS-E		PCW	
Respondent Post Oak Special Utility District		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34955		<i>PCW Revision September 19, 2007</i>			
Reg. Ent. Reference No. RN101452209					
Media [Statute] Public Water Supply					
Enf. Coordinator Tel Croston					
Violation Number	<input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.46(f)(3)(D)(i) and 290.46(f)(3)(E)(iv)"/>				
Violation Description	<input type="text" value="Failed to keep on file and have available for Commission review the following water system records: bacteriological sampling records for June and December 2004 and Customer Service Inspection reports for 2004."/>				
Base Penalty					<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification				
	Major	Moderate	Minor		
	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>		
	Percent	<input type="text" value="1%"/>			

Matrix Notes	<input type="text" value="Failed to meet less than 30% of the rule requirement."/>
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Adjustment

\$10

Violation Events

Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="48"/>
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<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

One single event is recommended.

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$13"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$13"/>	

Economic Benefit Worksheet

Respondent Post Oak Special Utility District
Case ID No. 34955
Reg. Ent. Reference No. RN101452209
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	19-Sep-2007	3-Oct-2007	0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	19-Sep-2007	19-Jun-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the amount to maintain bacteriological sampling records, calculated from the date of the investigation to the date of compliance, and to prepare and maintain Customer Service Inspection reports, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$4

Screening Date	6-Nov-2007	Docket No. 2007-1851-PWS-E	PCW
Respondent	Post Oak Special Utility District	<small>Policy Revision 2 (September 2002)</small>	
Case ID No.	34955	<small>PCW Revision September 19, 2007</small>	
Reg. Ent. Reference No.	RN101452209		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Tel Croston		
Violation Number	2		
Rule Cite(s)	30 Tex. Admin. Code § 290.43(c)(2)		
Violation Description	Failed to secure a ground storage tank roof hatch. Specifically, during the investigation it was documented that the roof hatch of the south 500,000 gallon storage tank was not locked.		
Base Penalty			\$1,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential			x	Percent	5%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
					Percent	0%

Matrix Notes	Failure to secure the roof hatch could expose customers of the water supply to insignificant amounts of contaminants which would not exceed levels that are protective of human health.
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Adjustment	\$950
\$50	

Violation Events

Number of Violation Events	1		Number of violation days	14
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<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty	\$50
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One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$0
	Violation Final Penalty Total
	\$65
This violation Final Assessed Penalty (adjusted for limits)	
\$65	

Economic Benefit Worksheet

Respondent Post Oak Special Utility District
Case ID No. 34955
Reg. Ent. Reference No. RN101452209
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$25	19-Sep-2007	3-Oct-2007	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to secure the roof hatch, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$0

Screening Date 6-Nov-2007 Respondent Post Oak Special Utility District Case ID No. 34955 Reg. Ent. Reference No. RN101452209 Media [Statute] Public Water Supply Enf. Coordinator Tel Croston Violation Number <input type="text" value="3"/> Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 290.46(j)"/> Violation Description <input type="text" value="Failed to complete Customer Service Inspection reports prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities. Specifically, the Respondent did not have Customer Service Inspection certificates for the following locations: 211 Hill County Road 3322 Loop, Hillsboro, 1827 Highway 171, Hillsboro, 122 Private Road 5177A, Coolidge and 115 Private Road 5177A, Coolidge."/>	Docket No. 2007-1851-PWS-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>												
Base Penalty <input type="text" value="\$1,000"/>													
>> Environmental, Property and Human Health Matrix													
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major Moderate Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> Percent <input type="text" value="0%"/>		Harm		Release	Major Moderate Minor		Actual	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>
	Harm												
Release	Major Moderate Minor												
Actual	<input type="text"/>	<input type="text"/>											
Potential	<input type="text"/>	<input type="text"/>											
>> Programmatic Matrix													
Matrix Notes	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major Moderate Minor</td> <td></td> </tr> <tr> <td><input type="text"/></td> <td><input type="text" value="X"/> <input type="text"/> <input type="text"/></td> <td><input type="text"/></td> </tr> </table> Percent <input type="text" value="10%"/>	Falsification	Major Moderate Minor		<input type="text"/>	<input type="text" value="X"/> <input type="text"/> <input type="text"/>	<input type="text"/>						
Falsification	Major Moderate Minor												
<input type="text"/>	<input type="text" value="X"/> <input type="text"/> <input type="text"/>	<input type="text"/>											
Adjustment <input type="text" value="\$900"/>													
<input type="text" value="\$100"/>													
Violation Events													
Number of Violation Events <input type="text" value="4"/> <input type="text" value="14"/> Number of violation days													
mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td><input type="text" value="X"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="X"/>
daily	<input type="text"/>												
monthly	<input type="text"/>												
quarterly	<input type="text"/>												
semiannual	<input type="text"/>												
annual	<input type="text"/>												
single event	<input type="text" value="X"/>												
Violation Base Penalty <input type="text" value="\$400"/>													
<input type="text" value="Four single events are recommended (one for each location)."/>													
Economic Benefit (EB) for this violation Statutory Limit Test													
Estimated EB Amount <input type="text" value="\$31"/>	Violation Final Penalty Total <input type="text" value="\$524"/>												
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$524"/>													

Economic Benefit Worksheet

Respondent Post Oak Special Utility District
Case ID No. 34955
Reg. Ent. Reference No. RN101452209
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$600	19-Sep-2007	3-Oct-2008	1.0	\$31	n/a	\$31
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to complete Customer Service Inspections, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$600

TOTAL

\$31

Screening Date	6-Nov-2007	Docket No.	2007-1851-PWS-E	PCW
Respondent	Post Oak Special Utility District	<small>Policy Revision 2 (September 2002)</small>		
Case ID No.	34955	<small>PCW Revision September 19, 2007</small>		
Reg. Ent. Reference No.	RN101452209			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Tel Croston			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 290.43(e)			
Violation Description	Failed to provide a properly constructed intruder-resistant fence. Specifically, during the investigation, it was documented that the barbed wire was hanging loose from the fence surrounding the ground storage tanks at the main plant.			
Base Penalty				\$1,000

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential			x	Percent	5%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor		
					Percent	0%

Matrix Notes	Without a proper fence, trespassers could vandalize the storage tanks compromising the system's ability to provide a safe and adequate water supply.
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Adjustment	\$950
\$50	

Violation Events

Number of Violation Events	1	Number of violation days	14
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<small>mark only one with an x</small>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

One single event is recommended.	Violation Base Penalty	\$50
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Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$2
Violation Final Penalty Total	\$65
This violation Final Assessed Penalty (adjusted for limits)	
\$65	

Economic Benefit Worksheet

Respondent Post Oak Special Utility District

Case ID No. 34955

Reg. Ent. Reference No. RN101452209

Media Public Water Supply

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$750	19-Sep-2007	3-Oct-2007	0.0	\$0	\$2	\$2
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to repair the intruder-resistant fence, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator:	CN600625735	Post Oak Special Utility District	Classification:	Rating:
Regulated Entity:	RN101452209	POST OAK SUD	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1090030
	WATER LICENSING	LICENSE		1090030
Location:	20632 North Farm-To-Market Road 709, Dawson, Navarro County			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	November 05, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 05, 2002 to November 05, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Tel Croston	Phone:	239-5717	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | | |
|---|--|----------------------------|
| N/A | Effective Date: 11/16/2003 | ADMINORDER 2003-0582-PWS-E |
| Classification: Moderate | | |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
30 TAC Chapter 290, SubChapter F 290.110(b)(4) | |
| Description: Failure to maintain the minimum disinfectant concentration residual of .5 mg/l total chlorine. | | |
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 11/21/2002 | (6315) |
| 2 | 12/18/2003 | (256245) |
| 3 | 02/14/2005 | (347615) |
| 4 | 07/14/2005 | (393295) |
| 5 | 09/30/2005 | (406223) |
| 6 | 12/05/2005 | (406676) |
| 7 | 02/09/2006 | (454727) |
| 8 | 01/17/2007 | (567385) |
| 9 | 05/18/2007 | (567529) |
| 10 | 07/16/2007 | (567635) |
| 11 | 10/19/2007 | (594462) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|------------------|--|--------------------------|
| Date: 08/19/2004 | (280293) | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.110(b)(4) | |
| Description: | Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine or 0.50 mg/L chloramines as per agency regulations. | |
| Date: 06/30/2005 | (393295) | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(n)(2) | |
| Description: | Failure to maintain and make available an accurate and up-to-date map of the | |

distribution system so that valves and mains can be easily located during emergencies.

Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(t)		
Description:	Failure to post a legible sign at the elevated storage tank site.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(G)		
Description:	Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 288, SubChapter B 288.20[G]		
Description:	Failure to provide a copy of an adopted drought contingency plan.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to keep a plant operations manual.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to provide an intruder-resistant fence in order to protect the elevated storage tank and ground storage tanks.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)		
Description:	Failure to provide an overflow pipe flap valve assembly on the ground storage tank with a good mechanical seal when closed in order to prevent the possible entrance of insects or other contaminants into the water supply.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:	Failure to equip the base of an elevated storage tank with an ultrasonic level indicator or a water level indicator gauge which is not less than 3 inches in diameter and calibrated at not more than 2 foot intervals.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and be free of excessive solids.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.		
Date	01/17/2007 (567385)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4) 5A THC Chapter 341, SubChapter A 341.0315(c)		
Description:	Violated the maximum contaminant level for Trihalomethanes during the fourth quarter of 2006.		
Date	05/18/2007 (567529)		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4) 5A THC Chapter 341, SubChapter A 341.0315(c)		
Description:	Violated the maximum contaminant level for Trihalomethanes during the first quarter of 2007.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
POST OAK SPECIAL UTILITY
DISTRICT
RN101452209**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1851-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Post Oak Special Utility District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 20632 North Farm-to-Market Road 709 in Dawson, Navarro County, Texas (the "Facility") that has approximately 702 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 5, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Six Hundred Sixty-Eight Dollars (\$668) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Thirty-Four Dollars (\$534) of the administrative penalty and One Hundred Thirty-Four Dollars (\$134) is deferred contingent upon the Respondent's timely and

satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility on October 3, 2007:
 - a. Provided documentation of the June and December 2004 bacteriological sampling reports;
 - b. Provided photographic documentation that the ground storage tank roof hatch was locked; and
 - c. Provided photographic documentation that the barbed wire on the fence was repaired.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to keep on file and make available for Commission review the following water system records: bacteriological sampling records for June and December 2004 and Customer Service Inspection reports for 2004, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(i) and 290.46(f)(3)(E)(iv), as documented during an investigation conducted on September 19, 2007.
2. Failed to secure the roof hatch of a ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2), as documented during an investigation conducted on September 19, 2007.
3. Failed to complete Customer Service Inspection reports prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material

improvement, correction, or addition to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j), as documented during an investigation conducted on September 19, 2007.

4. Failed to provide a properly constructed intruder-resistant fence, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during an investigation conducted on September 19, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Post Oak Special Utility District, Docket No. 2007-1851-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit Customer Service Inspection reports for 2004, as required by 30 TEX. ADMIN. CODE § 290.46;
 - b. Within 60 days after the effective date of this Agreed Order, complete Customer Service Inspections at the following residences: 211 Hill County Road 3322 Loop, Hillsboro, 1827 Highway 171, Hillsboro, 122 Private Road 5177A, Coolidge and 115 Private Road 5177A, Coolidge, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is

true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826


3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/11/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
 - Greater scrutiny of any permit applications submitted;
 - Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
 - Increased penalties in any future enforcement actions;
 - Automatic referral to the Attorney General's Office of any future enforcement actions; and
 - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

3-10-08

Date

KERRY W FELLER

Name (Printed or typed)
Authorized Representative of
Post Oak Special Utility District

PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

